CONFIDENTIAL

19 53 **File No.** K 141

Reference **DEPARTMENT** 740 Roll (T) 41-22/24

B **BRANCH**

Subject:— Allotment Committee to advise C E R

E.R.S. No. 153

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B/w Dept

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No.45(110)/51-Prop.
Government of India.
Ministry of Rehabilitation.

New Delhi, the 11th December, 1951.

From:

Shri Manmohan Kishan,
Assistant Secretary to the
Government of India.

To

All Part 'A' 'B' & 'C' States
(Except West Bengal, Assam, Tripura,
Manipur and Jammu and Kashmir).

Subject:-

Formation of Allotment Committees to advise the Custodians of Evacuee Property in the matter of allotment of evacuee property.---

Sir,

I am directed to state that the question of formation of Allotment Committees to advise Custodians of Evacuee Property in the matter of allotment of evacuee property in the States, and the desirability of continuing such Committees where they already existed, was discussed in the Conference of Custodians of Evacuee Property held in Nainital in September, 1951. Relevant extract from the proceedings of the Conference is enclosed. I am to request that the Custodian of evacuee Property in your State may be requested to take necessary action in accordance with the decision of the Conference. In case an Allotment Committee already exists, the State Custodian may be requested to draw up rules for its working in consultation with the State Government, on the lines of the rules framed in the Punjab. A copy of the rules after they have been framed may be sent to the Custodian General for his approval as well as to this Ministry. The Custodian General is being requested to obtain copies of the rules framed in the Punjab and to forward them to the State Custodians direct.

Yours faithfully,
Sd/-
(Manmohan Kishan)
Assistant Secretary to the
Government of India.

Copy forwarded to the Custodian General for information and with the request that copies of the rules framed in the Punjab may kindly be obtained and forwarded to the various Custodians of Evacuee Property direct. Necessary instructions may also kindly be issued to the Custodian of Evacuee Property, Delhi and Ajmer, in the matter.

2. Copy also forwarded to the Custodian of Evacuee Property, Delhi/Ajmer, for information and necessary action.

Sd/-
(Manmohan Kishan)
Assistant Secretary to the
Government of India.

EXTRACTS FROM THE PROCEEDINGS OF DISCUSSION HELD ON 18-9-1951-CUSTODIANS' CONFERENCE.

****

Item No.9. Allotment Committees, whether they should be abolished.

Allotment Committees exist in five states namely-Punjab, Bombay, Rajasthan, Hyderabad and Saurashtra, Custodian Pepsu intimated that on allotment committee was about to be formed in his State. Custodians of various States mentioned the difficulties experienced by them on account of allotment committees but they were unanimous regarding the benefit of technical advice given by the committees in the allotment of industrial concerns etc.

As to the necessary of the formation of the allotment committees and the desirability of continuing such committees where they already existed, the Conference decided that the Custodian in consultation with the State Government may have allotment committee but where committee is formed rules should be framed. While framing rules, the Custodians may draw upon the rules framed in the Punjab for this purpose, subject to necessary variations to suit circumstances in their respective States. After framing the rules, the Custodians shall get them confirmed by the Custodian General.

Shri Dantyagi was of the opinion that the Custodian should accept the advice of the allotment committee in 75% cases and in the remaining 25% he may decide according to his own discretion.

****

HSS.15/(

Rules for the guidance of the Allotment Advisory Committee for the City & the B.S.D.

1. Short Title.

These Rules may be called Rules for the allotment of the E.Properties.

2. Constitution.

The allotment Advisory Committee will consist of 9 members, including the Custodian of E.P., who will be the Ex-offi Chairman, the Collector of Bombay as the E officio ~~Chairman~~ the member, and the Asstt Custodian (Allotment) will be the ex-offici Secretary. The remaining 7 members will be non-official members. In case, of any vacancy arising, it will be filled by a mem nominated by Govt.

3. Functions.

The main function of the A.A.C. will be to advise the Custodian of E.P., Bombay State, in the allotment of houses, shops and business premises and industrial concer offices etc, which are declared as E.Ps., a of which possession has been taken in Great er Bombay.

4. Procedure.

(i) The Custodian of E.P. shall preside over the meetings of the committees.

(ii) Five members including the ex-officio members, if present, sha form the quorrum.

(iii)....

(iii) If the meeting is adjourned for want of quorum, it can be convened even the next day after putting the Notice thereof on the Office Notice Board. No quorum is required for the adjourned meeting

(iv) The Committee should normally meet every week and the notice of the meeting should be given to the members at least one day prior to the date of the meeting.

The question should normally be decided by the majority verdict, but the decision of the Custodian, where he disagrees with the majority decision of the Committee, shall prevail.

v) Attendance by proxy will not be recognised.

2. Priority list.

(i) A list of registered D.Ps. applying for the E.F. will be maintained according to the dates of receipt of application duly verified separately for residence, shops, offices, etc. These lists will be the nucleus of future allotments, but the list will b revised and kept alive by the addition of the names of the displaced persons whose dates

are verified and by the deletion of the names of persons who are allotted.

(iii) Normally the D.P. who is enlisted in one list will not be considered for the other list; for example, one entered in Residence list will not be considered for shop list.

(iii) Cases of D.Ps. in case of real hardship can be considered for allotment out of turn, only in respect of properties which come for re-allotment.

(iv) Normally, one D.P. should get only one allotment, either shop or residence, etc.

(v) The first Informant of the D.P., if he is a registered D.P. should be given 6 months priority over the date of his first application, and, if his date thus permits, he should be allotted that Property. 6 month's priority should be given in each case, and in respect to as many properties as the D.P. has been found to be the F.I. This would serve as an incentive to applicants of later date to discover more properties.

6. Allotment.

While making allotments the following factors should receive consideration:-

(i) The needs of the individual to be determined by the degree of his rehabilitation otherwise.

(ii) The ability of the individual to run an undertaking (e.g. a factory), this being partly determined by his previous vocation in Pakistan and his financial position at present.

(iii) The fact that the individual has not been a burden on Govt. hitherto.

(iv) The consideration that an individual has received loan from Govt. and that he is still residing in a camp.

(v) No D.P. joint family should be allowed to have more than one E.P., such as the house etc., for itself in Bombay City and the Suburban Dist. The same principle should apply to the occupation of evacuee shops etc. by eligible displaced persons. The D.persons who are already allotted one E.P. can, however, be considered for the other E.P. only if no other D.P. is willing to accept the said E.P which can be ascertained by publishing the E.P. and calling

Please see the Govt. of India's letter dated the 12th Decr. 1951, regarding Rules for the allotment of evacuee properties. The C.E.P.'s office has forwarded draft Rules. They have been examined and certain changes have been made. The revised Rules are submitted for approval. The reasons for modifying the draft Rules as suggested by C.E.P.'s office are explained below:-

Constitution: This is in accordance with the latest decision of Govt.

Function: This is included in Rule 3 so it is not necessary to define the Function precisely.

Procedure: That the C.E.P. will be Chairman and of the Committee has been made clear in the Constitution.

(ii) & (iii) No need to specify quorum.

(iv) A proviso has been added for longer intervals between the two meetings.

(v) It is not necessary to provide for majority or minority decision. Generally the Committee's recommendations are expected to be unanimous.

A clause has been added where the Custodian can overide the committee's recommendations by submitting such cases to Govt. This will strengthen the Custodians hand in rejecting the Committee's recommendations.

Priority list: There is no substantial change in these Rules.

Allotment: No substantial changes have been made. The term "Joint family" has been defined in a restricted manner as persons who were joint in Pakistan could now claim separate rehabilitation assistance. This will mean a heavy ~~demand~~/on the limited number of ~~quota~~ proportion available.

Conditions: No substantial modifications have been made.

These rules are now submitted to Govt. for approval. The Rules will be sent to the H. of H. and the Custodian General for approval.

Id/-
27/3/52.

hgs.15/6

These rules may be called the Rules for the working of ordinary committees on allotment of evacuee Properties.

2. They will generally apply to the allotment of evacuee property in Bombay and B.S.D.

3. The evacuee properties which have vested in the Custodian in Bombay and B.S.D. and the possession of which have been taken will be allotted by the Custodian in consultation with the Advisory Committee.

4. The Advisory Committee for the allotment of evacuee property shall consist of the following: -

i) Custodian of Evacuee Property (Chairman)

ii) The Colr. of Bombay and B.S.D.

iii) The Dy. Custodian of Evacuee Property, Bombay and B. S. D.

iv) Three non-officials appointed by Govt.

v) The P.A. to the Custodian of Evacuee Property - Member - Secretary.

Provided that Govt. may change the composition of the Committee from time to time.

5. i) The Committee should normally meet every month.

The notice of the meeting should be given to the members at least three days prior to the date of meeting.

Provided that if there is not enough business before the Committee, the meetings of the Committee may be held at longer intervals.

ii) The Custodian will generally follow the advice of the Committee for the allotment of evacuee property but in cases where he is unable to accept the Committee's recommendation

he will submit such cases to Govt. for orders with detailed reasons thereof.

iii) A

6. A register of application by displaced persons duly registered under the Bombay Refugee Act, 1949 in the Bombay State applying for the allotment of evacuee properties will be maintained in the Custodian's office. The register will be kept separately for each category of evacuee property e.g. residence, shops, offices, factories etc. Entries in the register will be made chronologically and normally preference will be given to the prior applicants; but the committee may for the reasons to be given recommend other applicants in particular cases.

The names of the displaced persons who have been allotted evacuee property shall be deleted from the list. A separate register of displaced persons who have been allotted evacuee property should be maintained and it could be circulated every quarter to the Dy. Custodians.

ii) Cases of displaced persons in real hardship can be considered for allotment out of turn in respect of properties which come for re-allotment.

iii) Normally, one d.p. should be allotted only one type of evacuee property.

iv) The first informant of an evacuee property, if he is a registered displaced person of Bombay State should be given preference, if otherwise found deserving.

7. The following considerations should be kept in view while making allotments of evacuee property.

i) The needs of the individual to be determined by the degree of his rehabilitation.

ii).....

ii) The ability of the individual to run such undertaking, this being partly determined by his previous vocation in Pakistan and his financial position at present.

iii) The fact that the individual has not been a burden on Govt. hitherto.

iv) The consideration that an individual had received a rehabilitation loan.

v) Members of a joint family should not be allotted more than one evacuee property, such as house, business premises etc.

(The Joint family should be interpreted to mean joint family before partition and not after partition).

vi) If more than one allotment comes to the notice of the Custodian, the allotment for only one property should be continued and the other allotments should be cancelled.

vii) If no displaced person is forthcoming to accept the allotment of any evacuee property that property may be allotted to a non-displaced persons.

8. i) The Custodian in his discretion may regularise the occupation of evacuee property if the person concerned has been in its occupation for considerable length of time provided that such occupation has been bonafide and on valid grounds.

ii) All allotments will be subject to such terms and conditions as the Custodian may impose from time to time.

iii)...

iii) No allottee should sublet or transfer in any manner whatsoever the evacuee property allotted to him and, if he does so, the allottee as well as the sublessee will be liable to summary ejection.

Such persons will be debarred from any allotment of a property in future.

iv) The allotment of any evacuee property is liable to be cancelled by the Custodian for the breach of any of the terms and conditions of allotment.

v) Before cancellation of any allotment, the Custodian may give one weeks' notice to the allottee to show cause why the allotment should not be cancelled.

9. The Custodian is empowered to add to or alter these rules after obtaining Govt.'s prior approval.

vi) Allotment of properties once allotted and either surrendered refused or cancelled will be made by the Custodian at his discretion as soon as possible after such refusal, surrender, or cancellation.

Id/-
27-6-52.

No rigid rules were thought necessary. Therefore they were not framed. This may be returned to P.A. Shree Sayan.

Id/-

hsc.15/6

No.R-141/44430
Rehabilitation Department.
Sectt.(Annexe) 24th Jan. 19

To

Shri Manmohan Kishan
Assistant Secretary tothe Govt. of India
Ministry of Rehabilitation.

Subject:- Formation of allotment Committees to advice Custodians of Evacuee property in the matter of allotment of Evacuee Property.

Sir,

I am directed to refer to the correspondence resting with your letter No.45(110)/51-Prop. dt. the 24.11.52 and to send herewith Rules for the working of the Advisory Committees for the allotment of evacuee properties. A copy of the Rules is being forwarded to the C.G. for approval.

I am to add that the allotment Committees have been functioning in this State since the coming into force of the evacuee laws and may have served a useful purpose.

Sd/-

A.S. Secy. to Govt. of Bombay,

Copy with a copy of the Rules are forwarded to the C.G.E.P., New Delhi, for favour of approving the rules.

The C.E.P. Bombay, for information.

ss.16/6

Copy.

No.X XI(Pol-iii)/Genl/52
Government of India
Ministry of Rehabilitation
OFFICE OF THE CUSTODIAN GENERAL OF EVACUEE PROPERTY.

'P' Block, New Delhi
ted the 27th Feb. 1953.

From

Shri Kulwant Rai,
Registrar.

To

The Custodian
Evacuee Property,
Mercantile Bank Building
Mahatma Gandhi Road, Fort,
BOMBAY I.

Sub:- Formation of allotment committees to advise Custodian of Evacuee property in the matter of allotment of E.P.

Sir,

With reference to letter No .H-141/4'430-B dated 24th January 1953 from the Assistant Secretary to the Government of Bombay addressed to the Ministry of Rehabilitation, New Delhi and copy endorsed to this office, I am directed to suggest the following changes in the Rules for the working of the Advisory committees:-

Rule 4:

(i) In sub-rule (iv) the words 'displaced persons' may be added; thus the sub-clause will read as under:-

Three non-officials from displaced persons appointed by Government.

(ii) Sub-rule (v) may be omitted. Secretary may be appointed out of the three non-official members of the committee.

Rule 6.

The following sub-rule (i) may be added:-

Publicity.

As soon as any evacuee property falls vacant, is sealed and is available for allotment, it should be advertised for the information of the public through notices displayed on the Notice Boards of the Custodians' offices.

A register showing the details of the vacant premises or those likely to fall vacant should be open to public inspection during office hours.

Sub-rule (iv) of rule 6.

We have done away with the policy of giving preference to the first informants. This sub-rule, may, therefore, be omitted.

Rule 7

The following sub-rule may be added:

The occupant's advance rent should be charged from the allottee before possession is delivered to him.

Rule 8.

A certain date may be fixed beyond which occupation of un-authorised persons of evacuee premises will not be confirmed but they will be liable to eviction

Rule 9.

This rule may be substituted by the following rule:-

The Custodian is empowered to add to or alter these rules in consultation with the State Government and after obtaining the Custodian General's prior approval.

These suggestions may kindly be brought to the notice of the State Government and if they have no objection to the acceptance of the same, a fresh copy of the rules may be made and sent to this office for approval.

Yours faithfully,

Sd/-xxxx

(Kulwant Rai)
Registrar.

Copy with a copy of original draft rules with my comments, forwarded with compliments to Secy.H.H.D. for information and for favour of Govt. sanction of the amendments proposed.

Sd/- x x x x
Custodian of Evacuee Property,
Bombay.

No.CEP/MISC/14,dt. the 3.3.53.

hsc.10/6

these rules. The Advisory committee had nothing to do with it. In this matter the Custodian is guided by instructions issued from time to time by the C.G. or the Central Govt. That is enough. It is not necessary to add a rule fixing the date here.

Rule 9:

Adding to or altering the rules.

Power of the Custodian.

I have no objection to substitution of the present draft by C.G.'s draft.

Sd/- x x x x

- - -

ES7.19/3

REHABILITATION DEPARTMENT.
"D Br.

We had forwarded draft rules for the working of the Advisory Committee for the allotment of evacuee properties to the Govt. of India and the Custodian-Genl. for approval.

The Custodian-General has suggested certain modifications in the draft rules. The C.E.P. has offered his remarks on the modifications suggested by the Custodian-General. They are dealt with below.

Rules (4) (i) It is not possible to accept Custodian General's suggestion to appoint all the non-official members from the displaced persons. One non-displaced persons has been appointed by Govt. in order to have the benefit of his advice regarding the local conditions market value, etc. We may, therefore, agree with the C.E.P. that all the non-officials need not be displaced persons. The present positio should remain.

I agree. One non-D.P. is helpful.

Id/-

(ii) For administrative reasons, the non-official member cannot function as Secy. to Committee. The Custodian General's suggestion cannot be accepted.

This is impractiocable. The Secy. has to prepare agenda, keep minutes and preliminary scrutiny of application. No non-official will be willing to do that much work free.

Rule 6: Publicity: It is not possible to implement the suggestion made by the Custodian Genl. The new sub-rule proposed by the C.E.P. may be approved.

The sub-rule regarding the first informants may be approved.

Rule 7: Advance of rent. This is a matter of detail and we may accept the C.E.P.'s view that no such rule should be incorporated.

Rule 8: We may accept the C.E.P.'s view that it is not necy. to make the provision suggested by the Custodian General.

I agree. Every 3 weeks or 4 weeks, properties are advertised. Custodian General, I understand refuses to sanction money for advertisement. It is fortunate that paper 'Hindustan' gives us free space. But they would not agree - agree to free space for each property separately.

Id/-

Rule 9 :

Rule 9: The modification suggested may be accepted.

The rules as amended may now be approved.

hss.16/6

Letter

To

The Custodian of Evacuee Property,
Bombay.

No.S.141/8083-B

Secretariat(Annexe),Fort,
Bombay(1) 4th April 1953.

Reference your U.O.No. CEP/Misc./14, dated the 3rd March 1953, regarding draft rules for the allotment committee.

Rule 4(i): Government agrees with you that all the non-official members neednot be displaced persons. The present practice of having at least one non-d.p. as a member of the Committee should be continued. It is necessary to have the advice of a non-d.p. who is conversant with the local conditions.

(ii) Government accepts your view that the P.A. to the C.E.P. should continue to work as Secretary to the Committee. There is considerable preparatory and administrative work to be done and it is doubtful if any non-official would be willing to do it. The present practice should be continued.

Rule 6. Sub-rule iv: The sub-rule regarding the first informants may be omitted. The new rule proposed by you for periodical publicity of evacuee properties available and ready for allotment is approved.

The new sub-rule regarding maintenance of a register showing the details of vacant premises is also approved.

Rule 7: Government agrees with you that provision for taking one months rent in advance need not be made in these rules. This is a matter entirely for the Custodian to deal with and need not be

mixed up with the rules to be framed for the committee.

Rule 8: Government accepts your view. It is not necessary to specify any date for regularising unauthorized occupants.

Rule 9: The addition suggested by the Custodian General may be accepted. The new sub-rules may be brought to the notice of the Central Government.

Sd/-
Secretary to the Government of Bombay
Rehabilitation Department.

RES.22/6

On further consideration, the foregoing remarks are offered on the amendments to rules 5 & 8 now proposed by the C.E.P.

Rule 5(ii):- It seems desirable to reserve to Govt the power of passing orders in cases where the C.E.P. is unable to accept the Committee's recommendations so as to put a limit on the power of the C.E.P. to override the Committee's recommendations in such cases as the existing rule envisages such a limitation of the power of the C.E.P. so as to secure a more balanced decision in such cases. The proposed amendment may not therefore be accepted and the rule may be allowed to stand as it is.

I agree. In the case of difference between Committee and C.E.P. it would be better if as the matter comes before Govt.

Id/-
28/11

I agree.

Id/-

Rule 8. :- The proposed amendment may be more appropriately made to sub rule (iii) then to sub-rule (iv). Sub rule (iii) prohibits the subletting or transfer of the allotment property altogether. The proposed amendment, on the other hand, does not seek to impose a total ban on the subletting or transfer of the allotment property but to make the subletting or transfer conditional on the allottee obtaining the prior permission in writing from the Custodian. Thus, the provisions of sub-rule (iii) and the proposed amendments are somewhat conflicting. It does not seem to be the intention of Govt. to prohibit the subletting or transfer of the allotment property altogether but to put a reasonable restriction on subletting or transfer with a view to ensuring that the transaction is bonafide and for valuable consideration and that the prior right title or interest of the C.E.P. as the owner of the property is not adversely affected. Instead of the proposed amendment, therefore, sub-

sub-rule (iii) may be amended to read as follows:-

"(iii) An allottee shall not sub-let or assign or transfer in any manner whatsoever his right title or interest in the evacuee pm property allotted to him under these rules, or grant leave or license to occupy such property, ~~allotment~~ without the prior permission in writing of the Custodian. In the want of default both the allottee and the transferee or licencee, as the case may be, shall be liable to be summarily ejected and shall further be liable to be debarred from any further allotment or transfer or occupancy, as the case may, be, of such or any other evacuee property."

The C.E.P.'s office may be informed accordingly while forwarding the proposed amendments to it.

Id/-
27-1-50

C.E.P. may see U.O. first in case he has any remarks to offeer.

Id/

hss.18/6

C.E.P.'s Office.

Sub:- Draft Rules for the guidance of the Advisory Committee for Allotment.

Draft rules for the guidance of the allotment Advisory Committee were sent to the Custodian General for his approval. The present Custodian after taking over charge went through the draft rules and suggested certain modifications. The draft rules as modified were addressed to C.G. through the H.H.D. The H.H.D. has not agreed to the modifications suggested in respect of two items. The first refers to rule (5) sub-rule (ii). Orginally the rule stood as under:-

"The Custodian will generally follow the advise of the Committee for the allotment of E.P.,but in cases where he is unable to accept the Committee's recommendations he will submit such cases to Government for orders with detailed reasons thereof." The present Custodian has suggested modifications to the effect that the Custodian when unable to accept the proposal of the Committee will pass orders giving detailed reasons thereof. The H.H.D. has objected to this. The H.H.D. is of view that when the Custodian is unable to accept the committee's recommendations it is desirable to put a limitation on the powers of the Custodian to override the Committee's decision. In this respect it may be pointed out that the Committee's functions are merely advisory and therefore it is in the fitness

of things that the Custodian's decision should prevail if there is difference of opinion between them. It does not appear necessary that cases where there is difference of opin between them should go to Govt. for decision. R.H.D.'s view appears to put limitations on the Custodian's powers in the matter of disposal of evacuee properties. Constitutionally, the Custodian is empowered to manage the Evacuee properties and there is provision to go to the C.G. in appeal or revision against his orders. In view of these provisions it would be awkward, if the State Govt of Bombay, passes orders in the matter of E.P. It may also be pointed out that apart from the question of legality of such a procedure, Govt. is bound to take considerable time before the questions are decided, during which the arrears of rent are bound to accumulate for which wholly the Custodian, i.e. to say Govt. will be liable.

Incidentally I may mention that so far we have not allotted any premises disagreeing with the committee although it may be necy. to do so in proper cases and we may have to exercise these powers. For these reasons we may press R.H.D. to accept our suggestion.

The other item concerns rule No.(8):- The Custodian has suggested an addition to sub-rule(iv) of rule (8). R.H.D. is of the opinion that instead of making an addition to sub-rule, sub-rule (iii)may be suitable amended to incorporate the modifications suggested. R.H.D. has redrafted sub-rule (iii) and there appears no objection to agree to it except that the word "other" appearing between "any and manners" should be proposed for delition as it is unnecessary.

With these remarks the ppn. may be returned to R.H.D.

Sd/-

U.O.R.No.CEP/MISC/4,dt. 17th Februar 1954 to R.H.D. Bombay.

hsc.18/2

REHABILITATION DEPARTMENT
"B. [illegible]."

Submitted with ref. to the office note dated the 27th Jnry.1954, and C.S.'s note, dated the 30th Jnry.1954, thereunder.

2. C.E.[illegible] does not agree to this Deptt. view that the existing sub-rule (ii) of rule 5 should be allowed to stand without the modification proposed by him, for the following reasons:

i) The allotment Advisory Committee's functions being merely advisory, it is in the fitness of things that the C.E.P.'s decision should prevail if there is a difference of opinion between the committee and the C.E.P.;

ii) As the C.E.P. is empowered to manage ev-cuee property under the administration of Evacuee Property Act, 1950, which also provides for the preferment of appeals or revision applications to the Custodian-Genl. by persons aggrieved by the C.E.P.'s orders, it would be awkward and in any case legally incorrect for the State Govt. to pass orders where the C.E.P. is unable to accept the Committee's recommendations.

iii) Reference to Govt. in cases where there is a difference of opinion between the Committee and the C.E.P. is bound to result in delay, as Govt. will take considerable time before passing orders in such cases and in consequence arrears of rent will accumulate for which the C.E.P. will be wholly liable.

It is no doubt true that the Admn. of Evac property Act, 1950, given wide powers to the C.E.P. in

C.E.P. in all matters pertaining to property declared to be evacuee property under the Act, including the power of management of such property, but these powers are subject to the powers of the Central Govt to give directions to the State Govt. as to the carrying into execution of the provisions of the Act (Section 53) or to pass such orders or direct such action to be taken as it may consider necy. for the purpose of regulating the administration of evacuee pro property consistently with the provisions of the Act (Sec.54). The main object underlying the vesting of overriding powers in the Central Govt. was to ensure that the purposes for which the Act was brought into being are satisfactorily achieved. It will be seen that one of the primary purposes of the Act is to obtain control of evacuee property for the rehabilitation of displaced persons. In pursuance of this purpose and in virtue of the powers referred to above, the Central Govt. have from time to time issued instructions to the State Govt. in regard to the management of evacuee property, including the formation of an allotment of minimum property a committee to advise the C.E.P. in the matter of allotment of evacuee property and the framing of rules for the working of such a committee. Considering that the measure of success of the Act is to be gauged by the extent to which it has assisted the rehabilitation of displaced persons, a matter which falls directly within the State Govt.'s sphere of responsibility, the reason for associating the State Govt. in the work of disposal of evacuee property becomes obvious. The grounds referred to at (i) and (ii) above are, therefore, untenable and it seems

any proper
that Govt. should have a say in the allotment of evacuee property, as envisaged by the existing sub-rule. It is not, however, the intention of Govt. generally to interfere with the powers of the C.E.P. in the matter of allotment. The C.E.P. has stated that he has so far not allotted any evacuee property in disagreement with the allotment committee. Occasions would thus be few when a ref. to Govt. would be necy and fewer still when Govt., in passing orders on a case would have to take a decision which is at variance with the C.E.P.'s opinion. Thus the practical effect of the limitation imposed by the existing sub-rule would be that while on the one hand the C.E.P.'s views would normally find support in the Govt. orders and would ~~naturally find~~ as only very rarely meet with a challenge from Govt., on the other, the committee (which consists of persons of some status and responsibility) would not be left with the feeling that their recommendations have been lightly set aside. The ground referred to at (iii) above is also not tenable as cases would come up to Govt. at a final stage, complete with all the material necy. for their proper appraisal, and hence no avoidable delay would be involved in taking decisions. In the circumstances, Govt. may adhere to its view that the existing sub-rule (ii) of rule 5 should be allowed stand without the modification proposed by the C.E.P 5. The C.E.P. has generally accepted the amendment to sub-rule (iii) of rule 6, suggested in office note dt. the 27th January.1954. The small deletion suggested by him may be agreed to.

Id/-.
6/3/54.

I agree with the office note. The main

intention in referring the cases to Government when there is a difference of opinion between the Custodian and his Advisory Committee is to ensure that an unbiased view can be taken by Govern Government and correct decision can be arrived at. It is not suggested that the powers of Custodian should be abridged. This rule as suggested by the R.H.D. is not new. It was previously framed by this Deptt. in consultation with the then Custodian, Shri Trivedi, who raised no objection to such a rule. It was even referred to the Custodian General and he also has not raised any objection to this rule being maintained. It is therefore not clear what inherent objection the C.E.P. should have in maintaining the rule as suggested by the R.H.D. On the contrary, if there is any difference of opinion between the Advisory Committee and the Custodian, and if Govt. gives a decision, it will strengthen the Custodian's hands and it is less likely to be criticised by the members of the Advisory Committee who are pre displaced persons. Therefore, even from the practical point of view, the suggestion made by this Deptt. appears to be reasonable. If this is approved, the draft as amended by the R.H.D. may be sent to the Custodian General for approval.

Sd/-

We may adhere to our view that the existing rule 8(ii) should be allowed to stand without the modification proposed by the C.E.P.

Sd/-

I would agree with the Custodian's views. Govt. I presume would still have original powers. U.S. will please speak.

Sd/-

C.E.P.'S OFFICE.

Submitted:-

E.H.P. have revised rule 5(ii) as follows:-

The Custodian will generally follow the advice of the Committee for allotment of Evacuee property, but in cases where he is unable to accept the committee's recommendation, he will pass orders in consultation with Government.

2. So far no property has been allotted in disagreement with the allotment committee. That is probably due to the fact that the Custodian all throughout had the final say in the matter of allotment and there are four official members on the committee. On reconsidering the matter I feel that once those powers are taken away or restricted in any form as proposed by E.H.P., it will have far reaching repurcussions. The homogeneous manner in which the Allotment Committee has been functioning so far, will not function in the same manner once the powers of the Custodian are restricted, as because the dissenting members will feel that they can always approach Government whom I will be bound to consult in accordance with the proposed rule. The allotment also may be delayed on this account.

3. It may be pointed out that in the past when Secretary E.H.P. was an ex-officio Custodian, such a provision could not have made much difference as normally the same person would be in a position to pass orders as Government and uphold the orders of the Custodian. Thus knowing that, there would have

been
little scope for disagreement with the advisory Committee. But the position as it will stand after this new proviso will be different. Some members of the Advisory Committee will take every opportunity to disagree, knowing fully well that the Custodian does not have a final say.

6. For this very reason it is desirable to retain clause 6(ii) of the Draft Rule submitted by this office. However, even after taking the above view into consideration Government feels that such a proviso will be salutory, I certainly have no objection to it.

Sd/-
23.3.54.

Secy.18/3

Rehabilitation Department.
"B" Br.

These papers deal with the question of making certain amendments to the existing rules for the working of the Advisory Committee for Allotment of Evacuee Properties in Bombay. In accordance with instructions received from the Government of India, Government had framed these rules in consultation with the then Custodian of Evacuee Property, Bombay (Shri R.S.Trivedi, I.C.S.). These rules were also brought to the notice of the Custodian General of Evacuee Property, who has not raised any objection thereto. The present Custodian (Shri P.C.Bhat) has suggested certain amendments to the rules. Except the amendment to rule 5(ii), these amendments have been substantially accepted by Government.

2. As regards the amendment to rule 5(ii), proposed by the present Custodian, attention is invited to the foregoing notes. The existing sub-rule reads as follows:-

> "5(ii) The Custodian will generally follow the advice of the Committee for the allotment of evacuee property but in cases where he is unable to accept the Committee's recommendations he will submit such cases to Government for orders with detailed reasons thereof".

The draft sub-rule proposed by the Custodian reads as follows:-

> "5(ii) The Custodian will generally follow the advice of the committee for allotment of evacuee property but in cases where he is unable to accept the Committee's recommendations he will pass orders giving detailed reasons thereof".

In support of the above, amendment the Custodian has urged that in the matter of allotment of evacuee property he performs the functions

vested in him under the Administration of Evacuee property Act and hence he (and not Government) should have a final say in the matter whenever there is a difference of opinion between him and the members of the Advisory Committee. This ground has been considered untenable in the circumstances already stated in office note, dated the 4-3-1954, and Assistant Secy.'s and Under Secy.'s notes, dt. the 10-3-54 and 18-3-54 respectively. It will be seen that the main intention in divergence of opinion between the Custodian and his Advisory Commitee is to ensure a balanced and unbiased decision which could, in the circumstances, only be taken at Government level. There is no intention to abridge or take away in the powers of the Custodian in this respect. The Custodian has had so far no occasion to differ from the opinion of the Advisory Committee and if such occasions ~~in this connect~~ at all in the future, they will be very few. It may be expected that on these few occasions the Custodian will have good grounds for not agreeing to the recommendations of the Committee and Govt., on being apprised of these grounds, would normally give a decision which would only support the view taken by the Custodian. Thus, the practical effect on referring such cases to Govt. is to strengthen the Custodian's hands and make the orders less open to criticism by the members of the Advisory Committee. It is no doubt true that the Custodian has wide powers under the Administration of Evacuee property Act in regard to the disposal of evacuee properties. At the same time, Govt. has not been completely ~~designed~~ left out of the scheme of the Act, which is mainly designed

to obtain

to obtain control of evacuee property for the rehabilitation of displaced persons, a matter which comes directly within the State Govt.'s sphere of responsibility. However, in the matter of allotment of evacuee property, as the State Govt. has, in accordance with instructions received from the Govt. of India, framed a set of rules to which the objection has been raised by the Custodian General, it would not be entirely out of place for the State Govt. to exercise some sort of control over the allotment of evacuee property, as envisaged by the existing sub-rule.

3. Notwithstanding what has been stated above, Govt. has, with a view to meeting all points of view, suggested a revision of the existing sub-rule so as follows:-

> "(ii) The Custodian will generally follow the advice of the Committee for the allotment of evacuee property but in cases where he is unable to accept the Committee's recommendations, he will pass orders in consultation with Government."

The Custodian still considers it desirable to amend the sub-rule as proposed by him, having regard particularly to the paramount consideration urged in his foregoing note, dt. 22-3-54, viz. that the Committee, once it knows that the final say rests with Govt. will seek every opportunity to disagree with him and rule it incumbent on him to approach Govt. This contention has already weighed with Govt. in adhering to its previous view. It will be seen that there is no basis for any apprehension that the committee will not work in the same harmonious manner as it has done hitherto. In view of this and of the fact that the Custodian has not absolutely objected to the draft sub-rule

s proposed by Govt.(vide the concluding portion
of the foregoing note), the draft sub-rule as
proposed by Govt. may be accepted.

Sd/-

The only question is about the advisability or otherwise of amending rule 5 as proposed by the present Custodian. The existing rule 5 was framed with the approval of the Custodian General at the time when Shri Trivedi was the Custodian. Since the present rule was framed there have been no occasion for disagreement between the Custodian and the Allotment Committee and consequently not even a single question relating to allotment has been referred to Govt. for their orders. No in the future do I anticipate many such cases of disagreement, particularly as the Allotment Committee has an official majority.

In principle, however, I agree that where there is a difference of opinion between the Allotment Committee and the Custodian over allotment, the Custodian shall consult Govt. before passing final orders. Govt. naturally will give due weight to the reasons which may be advanced by the Custodian for differing from the Committee in regard to a particular allotment. We may, therefore, agree to the modifications of rule 5 not as proposed by the Custodian as at 'A' on page 31.

Sd/-
(D.D.Khrehandani)
7-4-54.

Tendency is developing to bypass Govt. This tendency is not proper when the democratic Govt. is in power. Whenever offences are open the matter should come to the Govt.

Id/-

In view of the V(D.D.D.)'s view, we may not modify rule 5 as it should as presen

Sd/-

has.18

Confidential

No.Rym 1954/1059-B
Rehabilitation Department,
Sachivalaya, Foreshore Road,
Bombay, 1st May 1954.

To

The Registrar,
Office of the Custodian General
of Evacuee Property,
Ist Block, NEW DELHI.

Subject:- Draft Rules for the Guidance of the Advisory Committee for allotments, Bombay.

Sir,

With reference to the correspondence resting with your letter No.XXXI(Pol-112)/Genl/52, dated the 27th February 1953 addressed to the Custodian of Evacuee Property, Bombay and copy endorsed to this Govt. on the above subject, I am direct to forward herewith the Rules for the guidance of the Advisory Committee for allotments as finally approved by this Govt. These rules may please be approved.

Yours faithfully,

Sd/-
Assistant Secy. to the Govt. of Bombay,
Rehabilitation Department.

Copy with a Copy of the Rules forwarded with compliments to the Custodian of Evacuee Property, Bombay, for information and guidance.

HSG.23/6